**THE HON'BLE Ms. JUSTICE G. ROHINI**

**WRIT PETITION No.9484 OF 2007**

**ORDER:**

The petitioner claims to be the owner of a plot bearing No.54 in Threemoorthy Society, situated in Sy.No.74/12, Mahendra Hills, East Marredpally, Hyderabad, having purchased the same under a registered sale deed dated 19.2.1997. It is stated that having obtained No Objection Certificate from the Air Force Authority of India as well as permission from the Cantonment Board, he constructed ground floor on the said plot. Thereafter, since there is need for additional accommodation, he proposed to construct a first floor and, accordingly, made an application dated 23.1.2007 requesting the 2nd respondent to issue a No Objection Certificate. However the said application was returned by the 2nd respondent on 29.1.2007 on the ground that the plot in question forms part of Government land.

Aggrieved by the said action of the 2nd respondent, this writ petition is filed, contending *inter alia* that since the No Objection Certificate is required only for the purpose of height clearance of the proposed structure, it is not open to the 2nd respondent to raise an objection as to the title of the plot.

It is also contended that as a matter of fact, the objection that the land is a Government land is false and without any basis as is evident from the fact that he was granted permission by the Cantonment Board for construction of the ground floor long back.

A counter-affidavit has been field on behalf of the 2nd respondent stating that during the year 2003, the respondent was requested by the Office of the District Collector, Hyderabad, not to issue NOC to any one in respect of the land covered by Sy.No.74 of Marredpally, on the ground that the said land is recorded as Government land and certain

land grabbing cases filed by the State Revenue Department are pending before the Special Court under the A.P. Land Grabbing (Prohibition) Act. Hence, the respondent was constrained to return the petitioner's application, since the subject matter is *sub judice.* It is also stated that there was no such restriction by the date of granting NOC to the petitioner for construction of the ground floor in the year 1998.

I have heard the learned counsel for both the parties.

It is to be noted that Air Ports Authority of India, which is constituted under the Air Ports Authority of India Act, 1994 derives its power to issue No objection Certificate under Section 9(A) of the Aircrafts Act, 1934, which empowers the Central Government to restrict construction of buildings and other structures within a radius of 20 Kms from all Aerodromes. In the circumstances, though it is open to the 2nd respondent to consider whether the proposed construction falls within the restricted height, and pass appropriate orders on the application of the petitioner for grant of No Objection Certificate, the learned counsel for the petitioner contends that it is impermissible to raise any objection with regard to title of the plot since the same has no relevance for the purpose of granting No Objection Certificate under Section 9(A) of the Aircrafts Act, 1934.

The learned counsel for the petitioner while placing reliance upon a decision of this Court in **Hyderabad Potteries Private Limited v. Collector, Hyd.** (2001 (3) A.L.D. 600), further submitted that grant of NOC by the 2nd respondent would not confer any title on the petitioner and, therefore, it is not legally permissible to return the petitioner's application at the instance of the Revenue officials. The learned counsel submits that as a matter of fact, Section 22-A of the Registration Act, as applicable to the State of Andhra Pradesh, was also struck down by a Division Bench of this Court and that the notification dated 13.3.2000 issued by the District Collector preventing registration of lands in Sy.No.74 of Mahendra Hills was also declared by this Court as illegal in W.P.No.6925 of 2000 and Batch.

Be that as it may, since nothing could be pointed out by the respondents which empowers the 2nd respondent to raise any objection as to the title in respect of the plot in question, the impugned action of the 2nd respondent in returning the application of the petitioner for issuing NOC merely on the allegation that it is a Government land is arbitrary, illegal and without any authority.

Accordingly, the impugned order dated 23.1.2007 is hereby set aside and the writ petition is disposed of granting liberty to the petitioner to resubmit the application with all the relevant documents, in which event, the 2nd respondent shall consider the same in accordance with law and pass appropriate orders as expeditiously as possible, preferably within a period of 4 weeks from the date of receipt of such application. No costs.

**G. ROHINI, J.**

Dt.31–07-2007
Kgr

**THE HON'BLE Ms. JUSTICE G. ROHINI**

**W.P.No.9484 of 2007**

**DATED:31-07-2007**

Between:

T. Surya Kiran. ... Petitioner.

And

Airports Authority of India

National Airports Division,
Rajiv Gandhi Bhavan,
Safdarjung airport,
New Delhi – 110 003 and another. ... Respondents.